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Supreme Court of the United States

OCTOBER TERM, 1967

No. 624

EX PARTE BOSTON & PROVIDENCE RAILROAD STOCKHOLDERS DEVELOPMENT GROUP

PETITIONER

BOSTON & PROVIDENCE RAILROAD STOCKHOLDERS DEVELOPMENT GROUP,

PETITIONER

v.

CHARLES W. BARTLETT, TRUSTEE, et al.

RESPONDENT

IN THE MATTER OF BOSTON & PROVIDENCE RAILROAD CORPORATION, DEBTOR

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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September 15, 1967

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OCTOBER TERM, 1967

No.

EX PARTE BOSTON & PROVIDENCE RAILROAD STOCKHOLDERS DEVELOPMENT GROUP,

PETITIONER,

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

The Boston & Providence Railroad Stockholders Development Group prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the First Circuit, entered on March 29, 1967, in Appeal No. 6873, *Boston & Providence Railroad Stockholders Development Group* v. *Charles W. Bartlett, Trustee, et al.*

Petitioner is tendering to this Court a separate petition for a writ of mandamus in this matter. This petition for certiorari is tendered for alternative consideration in the event that this Court shall not deem mandamus the more appropriate remedy.

The Parties

Petitioner is a group of stockholders active in the affairs of the Boston & Providence Railroad Corporation (B&P) for thirteen years. B&P is a debtor in a Section 77 proceeding in the federal district court for Massachusetts. Petitioner appealed to the Court of Appeals from a district court order approving an I.C.C. plan of reorganization for B&P.

The nominal respondent is Charles W. Bartlett, as Trustee of B&P's properties. All other parties in the district court's 1966 plan proceeding were named appellants and are now named respondents. The major respondents are Richard Joyce Smith and William J. Kirk, as Trustees of the properties of The New York, New Haven & Hartford Railroad Company, a Section 77 debtor in the federal district court for Connecticut, now operating B&P's lines on an agency account for B&P, who would purchase B&P's assets under the plan. Other respondents are the B&P (Kynett) stockholders committee, B&P itself (the debtor's corporate shell), and the United States of America.

Decisions Below

The memorandum and order of the Court of Appeals dismissing the appeal and its memorandum and order denying rehearing, respectively dated March 29 and April 18, 1967, are not reported. They are appended to the petition for a writ of mandamus. The opinion of the District Court approving the plan is reported *sub nom, In re Boston & Providence Railroad Corporation, Debtor* in 260 F. Supp. 415. The report of the Interstate Commerce Commission approving the plan is printed *sub nom. Boston & Providence Railroad Corporation Reorganization,* at 327 I.C.C. 10.

Jurisdiction

The judgment of the Court of Appeals was entered on March 29, 1967. Rehearing was denied on April 18, 1967. This Court extended the time for filing a petition for a writ of certiorari through September 15, 1967. Petitioner invokes the jurisdiction of this Court under 28 U.S.C. 1254.

Question Presented

The sole question presented is set forth in the separate petition for a writ of mandamus.

Statement and Reasons for Granting the Writ

The statement of the case and reasons for granting the writ are set forth in the statement and argument of the separate petition for a writ of mandamus.

Conclusion

For the reasons set forth in the separate petition for a writ of mandamus, this petition for a writ of certiorari should be granted—if this Court shall not grant a writ of mandamus.

Respectfully submitted,

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September 15, 1967